

Executive Summary – Enforcement Matter – Case No. 42377
Motorola Northwest Property Owners, Inc.
RN103065322
Docket No. 2011-1532-EAQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

EAQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Motorola Northwest Parmer Lane Campus, 7700 West Parmer Lane, Austin, Williamson County

Type of Operation:

Construction site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 9, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$16,125

Amount Deferred for Expedited Settlement: \$3,225

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$12,900

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - Average by Default

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Motorola Northwest Property Owners, Inc.
RN103065322
Docket No. 2011-1532-EAQ-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 2, 2011

Date(s) of NOE(s): July 29, 2011

Violation Information

1. Failed to submit proof of deed recordation to the TCEQ within 60 days of the approval date, November 19, 1999, of the Edwards Aquifer Protection Plan ("EAPP") [30 TEX. ADMIN. CODE § 213.4(g) and EAPP 11-99092804 Standard Condition No. 2].
2. Failed to obtain approval of a modification to an approved EAPP prior to constructing the modification. Specifically, the Respondent installed 0.80 acre of crushed granite trails and paved a temporary construction road without prior approval of the modification [30 TEX. ADMIN. CODE § 213.4(j) and EAPP 11-99092804 Standard Condition No. 4].
3. Failed to obtain approval of an aboveground storage tank ("AST") facility plan before commencing construction. Specifically, the Respondent installed two storage tanks to fuel emergency generators without prior approval of the AST plan [30 TEX. ADMIN. CODE § 213.4(a)(1)].
4. Failed to test the organized sewage collection system prior to the use of the new sewer lines and manholes [30 TEX. ADMIN. CODE § 213.5(c)(3)(D) and EAPP 11-98070204 Standard Condition No. 8].
5. Failed to submit a copy of the transfer of responsibility form to the TCEQ within 30 days of the transfer of ownership of the property [30 TEX. ADMIN. CODE § 213.5(b)(5)(B) and EAPP 11-99092804 Standard Condition No. 17].
6. Failed to ensure that inspections and maintenance of permanent best management practices ("BMPs") were performed after construction [30 TEX. ADMIN. CODE § 213.4(k) and EAPP 11-99092804 Standard Condition No. 17].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:

- a. On June 28, 2011, submitted the transfer of responsibility form to the TCEQ;

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- b. On July 19, 2011, began maintaining the permanent BMPs and submitted an AST facility plan;
- c. On July 21, 2011, received approval of the modification to the EAPP;
- d. On July 27, 2011, submitted certified test records for the new sewer lines;
- e. On August 3, 2011, submitted the deed recordation; and
- f. On September 16, 2011, received approval of the AST facility plan.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division,
Enforcement Team 3, MC R-04, (817) 588-5886; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: John Grassi, Director, Motorola Northwest Property Owners, Inc.,
Spear Street Capital 1114 Avenue of the Americas, New York, New York 10036

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Aug-2011	PCW	30-Aug-2011	Screening	2-Aug-2011	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	Motorola Northwest Property Owners, Inc.		
Reg. Ent. Ref. No.	RN103065322		
Facility/Site Region	11-Austin	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	42377	No. of Violations	6	
Docket No.	2011-1532-EAQ-E	Order Type	1660	
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Cheryl Thompson	
		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$20,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** \$0

Notes: No adjustment for Compliance History.

Culpability **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$3,875

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$68
Approx. Cost of Compliance \$8,900
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$16,125

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$16,125

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$16,125

DEFERRAL **20.0%** Reduction **Adjustment** -\$3,225

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY \$12,900

Screening Date 2-Aug-2011

Docket No. 2011-1532-EAQ-E

PCW

Respondent Motorola Northwest Property Owners, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42377

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103065322

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for Compliance History.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 2-Aug-2011

Docket No. 2011-1532-EAQ-E

PCW

Respondent Motorola Northwest Property Owners, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42377

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103065322

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number

1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(g) and Edwards Aquifer Protection Plan 11-99092804
Standard Condition No. 2

Violation Description

Failed to submit proof of deed recordation to the TCEQ within 60 days of the approval date, November 19, 1999, of the Edwards Aquifer Protection Plan.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

62 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$250

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent returned to compliance on August 3, 2011.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

Economic Benefit Worksheet

Respondent Motorola Northwest Property Owners, Inc.
Case ID No. 42377
Reg. Ent. Reference No. RN103065322
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	2-Jun-2011	3-Aug-2011	0.17	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide a copy of the deed of recordation. Date required is the date of investigation.
 Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$0

Screening Date 2-Aug-2011

Docket No. 2011-1532-EAQ-E

PCW

Respondent Motorola Northwest Property Owners, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42377

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103065322

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 213.4(j) and Edwards Aquifer Protection Plan 11-99092804
Standard Condition No. 4

Violation Description

Failed to obtain approval of a modification to an approved Edwards Aquifer Protection Plan prior to constructing the modification. Specifically, the Respondent installed 0.80 acre of crushed granite trails and paved a temporary construction road without prior approval of the modification.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			25%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

49 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the period of June 2, 2011 (investigation date) to July 21, 2011 (date of compliance).

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent returned to compliance on July 21, 2011.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Motorola Northwest Property Owners, Inc.

Case ID No. 42377

Reg. Ent. Reference No. RN103065322

Media Edwards Aquifer

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,150	2-Jun-2011	21-Jul-2011	0.13	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost (\$650 modification fee and \$500 for the cost of the application) to obtain approval of the modification before construction activity began. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,150

TOTAL

\$8

Screening Date 2-Aug-2011

Docket No. 2011-1532-EAQ-E

PCW

Respondent Motorola Northwest Property Owners, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42377

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103065322

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 213.4(a)(1)

Violation Description

Failed to obtain approval of an aboveground storage tank ("AST") facility plan before commencing construction. Specifically, the Respondent installed two storage tanks to fuel emergency generators without prior approval of the AST plan.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

61 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the period of June 2, 2011 (investigation date) to August 2, 2011 (screening date).

Good Faith Efforts to Comply

10.0% Reduction

\$500

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance on September 16, 2011.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

Economic Benefit Worksheet

Respondent Motorola Northwest Property Owners, Inc.
Case ID No. 42377
Reg. Ent. Reference No. RN103065322
Media Edwards Aquifer
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$650	2-Jun-2011	16-Sep-2011	0.29	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to submit an AST facility plan. Date required is the investigation date. Final date is the date the AST facility plan was approved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$650

TOTAL

\$9

Screening Date 2-Aug-2011

Docket No. 2011-1532-EAQ-E

PCW

Respondent Motorola Northwest Property Owners, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42377

PCW Revision October 30, 2006

Reg. Ent. Reference No. RN103065322

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 213.5(c)(3)(D) and Edwards Aquifer Protection Plan 11-98070204 Standard Condition No. 8

Violation Description

Failed to test the organized sewage collection system prior to the use of the new sewer lines and manholes.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

55 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the period of June 2, 2011 (Investigation date) to July 27, 2011 (date of compliance).

Good Faith Efforts to Comply

25.0% Reduction

\$625

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes: The Respondent returned to compliance on July 27, 2011

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$38

Violation Final Penalty Total \$1,875

This violation Final Assessed Penalty (adjusted for limits) \$1,875

Economic Benefit Worksheet

Respondent Motorola Northwest Property Owners, Inc.
 Case ID No. 42377
 Reg. Ent. Reference No. RN103065322
 Media Edwards Aquifer
 Violation No. 4

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	2-Jun-2011	27-Jul-2011	0.15	\$38	n/a	\$38

Notes for DELAYED costs

Estimated cost to test and provide certification for the organized sewage collection system. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$38

Screening Date 2-Aug-2011

Docket No. 2011-1532-EAQ-E

PCW

Respondent Motorola Northwest Property Owners, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42377

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103065322

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 213.5(b)(5)(B) and Edwards Aquifer Protection Plan 11-99092804 Standard Condition No. 17

Violation Description

Failed to submit a copy of the transfer of responsibility form to the TCEQ within 30 days of the transfer of ownership of the property.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

26 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

X

N/A

(mark with x)

Notes

The Respondent returned to compliance on June 28, 2011.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,875

This violation Final Assessed Penalty (adjusted for limits) \$1,875

Economic Benefit Worksheet

Respondent Motorola Northwest Property Owners, Inc.
Case ID No. 42377
Reg. Ent. Reference No. RN103065322
Media Edwards Aquifer
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	2-Jun-2011	28-Jun-2011	0.07	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to inform the region of transfer of responsibility. Date required is the investigation date.
Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$50

TOTAL \$0

Screening Date 2-Aug-2011

Docket No. 2011-1532-EAQ-E

PCW

Respondent Motorola Northwest Property Owners, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42377

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103065322

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 213.4(k) and Edwards Aquifer Protection Plan 11-99092804
Standard Condition No. 17

Violation Description

Failed to ensure that inspections and maintenance of permanent best management practices ("BMPs") were performed after construction.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

47 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the period of June 2, 2011 (investigation date) to July 19, 2011 (date of compliance).

Good Faith Efforts to Comply

25.0% Reduction

\$625

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent returned to compliance on July 19, 2011.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$1,875

This violation Final Assessed Penalty (adjusted for limits) \$1,875

Economic Benefit Worksheet

Respondent Motorola Northwest Property Owners, Inc.
 Case ID No. 42377
 Reg. Ent. Reference No. RN103065322
 Media Edwards Aquifer
 Violation No. 6

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	2-Jun-2011	19-Jul-2011	0.13	\$13	n/a	\$13

Notes for DELAYED costs

Estimated cost to begin conducting inspections and maintaining the BMPs. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$13

Compliance History

Customer/Respondent/Owner-Operator:	CN603932625	MOTOROLA NORTHWEST PROPERTY OWNERS, INC.	Classification:	Rating:
Regulated Entity:	RN103065322	MOTOROLA NORTHWEST PARMER LANE CAMPUS	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	EDWARDS AQUIFER	REGISTRATION		11-11050404
	EDWARDS AQUIFER	REGISTRATION		11-11050404A
	EDWARDS AQUIFER	REGISTRATION		11-98070204
	EDWARDS AQUIFER	REGISTRATION		11-99092804
	EDWARDS AQUIFER	REGISTRATION		11-98042702
	EDWARDS AQUIFER	REGISTRATION		11-98050102
	EDWARDS AQUIFER	REGISTRATION		11-98050102A
	EDWARDS AQUIFER	REGISTRATION		11-98070205
	EDWARDS AQUIFER	REGISTRATION		11-11050404
Location:	7700 W PARMER LN, AUSTIN, TX, 78729			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	August 31, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 31, 2006 to August 31, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Cheryl Thompson		Phone:	(817) 588-5886

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OWN MOTOROLA NORTHWEST PROPERTY OWNERS, INC.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWN COUSINS STONE
OWN Faison-Texas, Inc.
5. When did the change(s) in owner or operator occur? 5/4/2009
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 07/29/2011 (924043)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MOTOROLA NORTHWEST
PROPERTY OWNERS, INC.
RN103065322**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-1532-EAQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Motorola Northwest Property Owners, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a construction site located at 7700 West Parmer Lane in Austin, Williamson County, Texas (the "Site").
2. The Respondent has discharged other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 3, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Sixteen Thousand One Hundred Twenty-Five Dollars (\$16,125) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Twelve Thousand Nine Hundred Dollars (\$12,900) of the administrative penalty and Three Thousand Two Hundred Twenty-Five Dollars (\$3,225) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. On June 28, 2011, submitted the transfer of responsibility form to the TCEQ;
 - b. On July 19, 2011, began maintaining the permanent best management practices ("BMPs") and submitted an aboveground storage tank ("AST") facility plan;
 - c. On July 21, 2011, received approval of the modification to the Edwards Aquifer Protection Plan ("EAPP");
 - d. On July 27, 2011, submitted certified test records for the new sewer lines;
 - e. On August 3, 2011, submitted the deed recordation; and
 - f. On September 16, 2011, received approval of the AST facility plan.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to submit proof of deed recordation to the TCEQ within 60 days of the approval date, November 19, 1999, of the EAPP, in violation of 30 TEX. ADMIN. CODE § 213.4(g) and EAPP 11-99092804 Standard Condition No. 2, as documented during a record review conducted on June 2, 2011.
2. Failed to obtain approval of a modification to an approved EAPP prior to constructing the modification, in violation of 30 TEX. ADMIN. CODE § 213.4(j) and EAPP 11-99092804 Standard Condition No. 4, as documented during a record review conducted on June 2, 2011. Specifically, the Respondent installed 0.80 acre of crushed granite trails and paved a temporary construction road without prior approval of the modification.
3. Failed to obtain approval of an AST facility plan before commencing construction, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1), as documented during a record review conducted on June 2, 2011. Specifically, the Respondent installed two storage tanks to fuel emergency generators without prior approval of the AST plan.
4. Failed to test the organized sewage collection system prior to the use of the new sewer lines and manholes, in violation of 30 TEX. ADMIN. CODE § 213.5(c)(3)(D) and EAPP 11-98070204 Standard Condition No. 8, as documented during a record review conducted on June 2, 2011.
5. Failed to submit a copy of the transfer of responsibility form to the TCEQ within 30 days of the transfer of ownership of the property, in violation of 30 TEX. ADMIN. CODE § 213.5(b)(5)(B) and EAPP 11-99092804 Standard Condition No. 17, as documented during a record review conducted on June 2, 2011.
6. Failed to ensure that inspections and maintenance of permanent BMPs were performed after construction, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and EAPP 11-99092804 Standard Condition No. 17, as documented during a record review conducted on June 2, 2011.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations

which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Motorola Northwest Property Owners, Inc., Docket No. 2011-1532-EAQ-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

R. D. Hyle
For the Executive Director

1/11/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

John Grassi
Signature

10/3/11
Date

John Grassi
Name (Printed or typed)
Authorized Representative of
Motorola Northwest Property Owners, Inc.

Director
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.